

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
WALTER P. HUGHES,)	
)	
Plaintiff,)	
)	
v.)	Civil Docket No. 04 11662NMG
)	
THOMAS McMENAMON, JR.)	
)	
and)	
)	
AMERICA ONLINE, INC.,)	
)	
Defendants.)	
_____)	

DEFENDANT AMERICA ONLINE, INC.'S MOTION TO DISMISS

Pursuant to Fed. R. Civ. P. 12, Defendant America Online, Inc. ("AOL"), by counsel, moves this Court to grant AOL's motion to dismiss. The reasons for granting this relief are set forth in the accompanying Memorandum in Support of AOL's Motion to Dismiss.

WHEREFORE, AOL asks that this Court grant AOL's motion, and dismiss all of Plaintiff's claims against AOL with prejudice.

Respectfully submitted,

/s/ Benjamin M. Stern

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October 4, 2004

RULE 7.1(A)(2) ATTORNEY CERTIFICATION

Pursuant to Local Rule 7.1(a)(2), I, Benjamin M. Stern, certify that I contacted Plaintiff on October 1, 2004, but was unable to resolve or narrow the issues raised in the instant motion.

/s/ Benjamin M. Stern

Benjamin M. Stern

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the above and foregoing Defendant America Online, Inc.'s Motion to Dismiss has been served via first-class mail, postage pre-paid, this 4th day of October, 2004 on the following:

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